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ZIMBABWE

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I. LAND AND PEOPLE

A. The Land

1. Zimbabwe is situated in south-central Africa between the Limpopo and Zambezi Rivers. It is bound by Zambia in the north and north-west, by South Africa in the south; by Mozambique in the east and north-east and in the south-west by Botswana. It covers a total area of 390,245 square kilometres, about three times the size of England.

2. Zimbabwe lies wholly to the north of the Tropic of Capricorn and almost the whole country lies more than 330 metres above sea level. The outstanding feature is the central plateau, also known as the highveld which is about 650 kilometres long and 80 kilometres wide. Bounding it on either side is the middleveld which is between 600 and 1,200 metres above sea level.

B. Population

3. The total population of Zimbabwe, according to the 1992 Population Census, stands at about 10.4 million of whom about 70 per cent and 30 per cent live in the rural and urban areas respectively. The growth rate of the population is approximately 3.0 per cent per annum.

4. The population of Zimbabwe is culturally and linguistically diverse. There are some 12 indigenous languages spoken throughout the country. These people have, despite their different beliefs, cultures and languages, managed to live harmoniously while preserving their cultural beliefs and values. However, there are two main local languages spoken, that is Shona and Ndebele. The official language is English.

C. Ethnic characteristics

5. The ethnic characteristics of Zimbabweans are diverse. The largest ethnic group are the Shona who are made up of numerous groupings (among them the Karanga, Zezuru, Manyika, Kore Kore) totalling 65 per cent of the population. Other groups are the Ndebele (15 per cent), Kalanga (5 per cent) and the Sotho, Tonga and Venda who constitute about 1 per cent each. In addition, there are persons of European and Asian origin who constitute about 0.5 per cent and 0.1 per cent of the total population.

D. Social and economic indicators

6. These can be tabulated as follows:

Gross Domestic Product (1992)	Z$ 4,115 million
Gross Domestic Product per capita (1992)	Z$ 396,000
Population (1992)	10.4 million
Female population	5.3 million
Male population	5.1 million
Population in urban areas	31% (projection)
Population in rural areas	69% (projection)
Population growth rate	3.1%
Currency	Zimbabwe dollar (Z$)
Exchange rate subject to fluctuation (March 1994)	US$ 1 = Z$ 8.00
Foreign debt	US$ 3.2 billion
Rate of inflation (January 1994)	18.6%
Literacy rate	76.6%
Literacy rate (females)	71.3%
Literacy rate (males)	82.3%
Life expectancy (males)	59
Life expectancy (females)	63
Fertility rate	61%
Crude general mortality rate	10.8 per 1,000
Maternal mortality rate	80 per 1,000
Child mortality rate	23 per 1,000
Infant mortality rate	60 per 1,000

II. GENERAL POLITICAL STRUCTURE

Political history of Zimbabwe

7. The political history of Zimbabwe can be likened to that of any other African country and can be divided into distinctive stages.

Pre-colonial era (prior to 1890)

8. Most of the studies about the political history of Zimbabwe during this stage, although documented, are largely as a result of oral tradition.

9. Oral tradition has it that even before the twelfth century there was a system of government in the land that was to be known as Zimbabwe. This was centred at Dzimbabwe which had a population of about 10,000 Shona people. The great stone walls were a symbol of its power which even now remain standing in the south-east part of the country. Dzimbabwe, though arguably the greatest was not the only kingdom as there were various other smaller maDzimbabwe kingdoms scattered throughout the country. However, at its peak in about 1350 AD, Dzimbabwe was the residence of the most powerful ruler (mambo) in the south-eastern part of Africa.

10. The structural government had a system of justice, army, farmers, miners, smiths and other units. The people in their other little kingdoms were ultimately subject to the king at Dzimbabwe to whom they paid tribute throughout the year.

11. The Ndebele occupied the western part of the country and the majority of Ndebele settlements in the pre-colonial era were small-scale, averaging about 50 to 200 people. The villages were collected together into clusters or were part of the partially decentralized chieftaincy or isigaba which contained several villages. One family supplied a succession of chiefs within an isigaba in accordance with strict laws of patrilineality, which even the king was rarely able to disturb. Like the Shona, the Ndebele also had a system of government. At the head of the tribe was the king, whose capital was at Gubulawayo (now known as Bulawayo). Under the king were various chiefs, the indunas, who headed their own chiefdoms and were accountable to the king at Gubulawayo.

Colonial period (1890-1979)

12. The tentative colonization of Zimbabwe started in 1888 and saw its full culmination in 1890 when the white settlers, most of whom had emigrated from the Cape Colony in the south arrived at a place which they called Fort Salisbury, on 12 September 1890. A system of government was installed which was run by the British South African Company (BSACo) under a Charter on behalf of Her Majesty's Government in London.

13. The uprisings of the Ndebele between 1893-1894 and the Shona between 1896-1897 culminated in a series of moves in 1901 that resulted in the amalgamation of their territories into "Southern Rhodesia" following their defeat by the settlers.

14. The territory now had an administrator, a legislative council, magistrates, native commissioners and chiefs. The chiefs were stripped of their traditional powers and were under the Department of Native Affairs.

15. On 1 October 1923 the Company gave up governance of the territory and under a resolution, the territory was to opt for self-rule or to join the Union of South Africa. The settlers opted for self-rule and became responsible for all government matters except defence, mining royalties, and African affairs which were reserved to the British Government. Thus, Southern Rhodesia was now a fully fledged white settler colony with a prime minister, a cabinet and a parliament.

16. During the Second World War, when tentative moves towards federation were made, three territories, Nyasaland (now Malawi), Northern Rhodesia (now Zambia), and Southern Rhodesia (now Zimbabwe) set up an inter-territorial secretariat and in 1945, a Central African Council. A Federal government with a Federal parliament officially came into being in October 1953. However, the Federation was dissolved following the independence of Malawi and Zambia in 1962 and 1964, respectively. But Southern Rhodesia continued to exist as a separate entity under colonial administration.

Unilateral Declaration of Independence

17. Southern Rhodesia unilaterally declared its independence from Britain in 1965, under a minority white regime, and became known as Rhodesia. This move was illegal since it had not been sanctioned by Government at Westminster. Consequently, the UDI Government was ostracized domestically and internationally. It also faced intensive economic and diplomatic sanctions which were imposed by the international community to bring UDI to an end.

Independent Zimbabwe

18. On 18 April 1980 the country became independent under a majority government and its name was changed from Rhodesia to Zimbabwe. A new independence constitution previously agreed to, in London, the Lancaster Constitution, was promulgated providing for a bicameral Parliament which consisted of the Upper House (Senate) and a Lower House (House of Assembly).

19. The head of Government was the Prime Minister and a ceremonial head of State who was the President. The Constitution also provided for the separation of powers, namely, the executive, the legislative and the judicial. Institutionally, this period brought about the real empowerment of the people for the first time as they became represented by a government that was of their own choice.

20. The period up to 1987 was characterized by political instability in the form of dissident activities resulting from conflict between the two major political parties ZANU (PF) and PF (ZAPU). Negotiations between the parties culminated in the Unity Agreement (1987), which ended the conflict and resulted in the merger of the two parties.

21. Subsequent constitutional amendments resulted in the abolition of the Office of the Prime Minister and provided for the appointment of an Executive President and unicameral Parliament.

22. The President is now the head of State, head of Government and commander-in-chief of the defence forces. He is elected by voters registered on the voters roll and holds office for a period of six years after which he may be re-elected for a further period of office. The current President was elected into office in 1990 and his term is due to expire in 1996.

23. Parliament consists of 150 members of whom 120 are elected by voters registered on the voters roll and represent 120 constituencies, 8 are provincial governors who are ex officio members of Parliament, 10 are traditional chiefs appointed by the Council of Chiefs and 12 others are appointed by the President.

24. Parliament is summoned by a presidential proclamation and is prorogued and dissolved by the President. Parliament has a maximum life of five years after which it is automatically dissolved. In terms of the Constitution a general election has to be held immediately thereafter.

Parliamentary elections

25. For election purposes, Zimbabwe is divided into geographical areas known as constituencies, each returning one member of Parliament. There is established under the Constitution a Delimitation Commission which is convened by the President and whose function is to ensure equitable representation by defining constituency boundaries.

26. The Constitution also provides for the establishment of an Electoral Supervisory Commission whose function is to supervise the registration of voters and the conduct of elections. It is also empowered to scrutinize every proposed bill or statutory instrument relating to the registration of voters or to the election of members of Parliament before such bill or statutory instrument is laid before Parliament. There is also an Election Directorate, established in terms of the Electoral Act, which is responsible for coordinating the activities of ministries and departments in regard to the delimitation of constituencies, the registration of voters, the conduct of polls, and generally ensuring that elections are conducted efficiently, properly, freely and fairly.

27. Under the Electoral Act 1990, parliamentary elections are by secret ballot. Zimbabwean citizens and permanent residents are entitled to vote provided they are aged 18 years or over and are not disqualified from voting. Voting is not compulsory.

28. To be eligible to vote in a particular constituency a voter must be registered in that constituency. The voters roll is compiled by the Registrar-General of Elections and is to be updated regularly.

29. Any person who is a Zimbabwean citizen or permanent resident and who is not disqualified from voting and has reached the age of 18 years may stand as a candidate at parliamentary elections.

The party system

30. Zimbabwe is a multi-party democracy. People are free to form and join any political party. At elections voters, subject to eligibility, can vote for any candidate of any political party which promises to best serve their interests.

31. Under the Political Parties (Finance) Act, 1992 which provides for the financing of political parties, parties are required to register with the Minister of Justice, Legal and Parliamentary Affairs in order to receive a grant from the State. The total amount payable is proportional to the number of elected party representatives who are members of Parliament provided they are no fewer than 15. The Minister can reject an application for registration and the party can appeal against this decision to the High Court.

32. There are at present close to 12 political parties in Zimbabwe. The grant has so far been awarded to ZANU (PF), the ruling party, which currently holds 117 of the 120 elected seats in Parliament.

III. GENERAL LEGAL FRAMEWORK

The legal system

33. Zimbabwe is basically a Roman Dutch Law jurisdiction. In terms of the Constitution of Zimbabwe the law to be administered by the courts, in addition to the African customary law, shall be the law in force in the Colony of the Cape of Good Hope on 10 June 1891, as modified by subsequent legislation having the force of law in Zimbabwe.

34. The major sources of law applied in Zimbabwe can be categorized as:

(a) The common law;

(b) Statute law;

(c) Judicial precedents;

(d) Customary law.

35. The Constitution of Zimbabwe is the supreme law of Zimbabwe and if any other law is inconsistent with the provisions of the Constitution that other law shall, to the extent of the inconsistency, be void. All the courts, which have the responsibility of interpreting and applying the law, derive their authority from various statutes enacted by Parliament.

The Supreme Court

36. The highest court in the land, this Court is established under the Constitution and is headed by the Chief Justice. It is the final court of appeal. Its jurisdiction and powers are conferred upon it by the Constitution and Supreme Court Act 1981 and the common law.

37. The Supreme Court hears appeals in civil and criminal cases from the High Court, Administrative Court, magistrates courts, local courts and other tribunals.

38. The Supreme Court is also empowered by the Constitution to hear at first instance constitutional issues, more specifically issues where there is an alleged violation of the Declaration of Rights. It can also hear matters referred to it by other competent courts where a certain law has been challenged as unconstitutional. Such cases are heard by the full bench (five judges).

39. The Chief Justice and other judges of the Supreme Court and High Court are appointed by the President after consultation with the Judicial Service Commission. A judge may only be removed from office for inability to discharge his functions or for misbehaviour. Judges' salaries and conditions of service are fixed by the President.

The High Court

40. As with the Supreme Court, the High Court is established under the Constitution. It is headed by the Judge President, who is subject to the directions of the Chief Justice.

41. The High Court has unlimited original jurisdiction in civil and criminal cases save for cases brought in terms of the Constitution where the Supreme Court has original jurisdiction. Its jurisdiction, powers, practice and procedure are laid down in the High Court of Zimbabwe Act 1981 and through other statutory provisions and precedents. Provision is also made therein for the Court's power to consider appeals and reviews from decisions of inferior courts and tribunals. The Court sits permanently in Harare and Bulawayo and goes on circuit to Mutare, Gweru, Masvingo and Hwange. All the proceedings are open to the public and the media.

42. Offences triable in the High Court include the very serious offences, e.g. murder and robbery. The Court is the only authority that is empowered to pass the sentence of death in respect of specified offences. The sentence cannot be imposed on an offender who:

(a) Is a pregnant woman;

(b) Is over the age of 70 years; or

(c) At the time of the offence was under the age of 18 years.

The Administrative Court

43. The Court is a creature of statute. It is established and is conferred with functions and duties in terms of the Administrative Court Act 1979. The jurisdiction of the Court is prescribed by the same Act and other enactments.

44. It functions as a court of appeal from a variety of administrative and judicial decisions (by tribunals and statutory authorities) made under legislation such as the Liquor Act, Estate Agents Acts, Drugs and Allied Substances Act, Water Act, Land Acquisition Act, Natural Resources Act, etc. Appeals against decisions of this Court lie with the Supreme Court.

The Magistrates Courts

45. Also established under an Act of Parliament, the courts have summary jurisdiction and are presided over by magistrates. They deal with offences ranging from the minor, e.g. theft and shoplifting, to more serious offences like rape and robbery. The magistrates are legally qualified personnel and sit alone in court proceedings.

46. The courts also conduct committal proceedings in respect of offences to be tried in the High Court. They also entertain civil cases within the limitations of the Act, e.g. debt recovery, maintenance orders, custody guardianship, etc. The courts also hear appeals from the local courts and assistant magistrates courts. It also sits as a juvenile court at times.

47. The Chief Magistrate is in charge of all magistrates throughout the country. The magistrates are appointed by an executive authority and at present there are about 156 magistrates throughout the country.

The local courts

48. These are a reproduction of the traditional courts. They are tasked with determining civil matters where customary law is applicable. The local courts are established under the Customary Law and Local Courts Act 1990. The local courts consist of:

(a) Community courts which are presided over by chiefs and elected presiding officers and their monetary jurisdiction is limited to $1,000;

(b) Primary courts which are presided over by headmen and their monetary jurisdiction is limited to $500.

The chiefs and headmen are appointed by an executive authority.

49. These courts cannot entertain cases involving the dissolution of a marriage, wills (validity, effect or interpretation of), custody or guardianship of minors, etc.

50. An appeal from the community court lies with the magistrates court and eventually to the Supreme Court if one is not satisfied with a decision/direction by the magistrate.

Small claims courts

51. Designed to relieve the workload of the ordinary courts of the land, these courts are set up under the Small Claims Court Act. Under the Act, a qualified lawyer with three years' experience or a former legal practitioner or a magistrate can be appointed to preside over claims in these courts.

52. Legal representation is not allowed in these courts. The procedure is designed to be simple and cheap. It is also intended to be as informal as possible to allow for speedy solution of matters. No formal pleadings are required but simple forms for application/defences are provided.

53. The courts are designed to deal only with small claims of up to Z$ 2,000 and do not handle divorce suits, custody cases, maintenance claims, etc. The decision of the adjudicator is final and not appealable although the proceedings are reviewable before the High Court. The basis of the review can either be procedural impropriety where the adjudicator has failed in his duty to act fairly or where there was gross irregularity in the proceedings.

The Ombudsman

54. The Office of the Ombudsman is established under an Act of Parliament in 1982. The Ombudsman is appointed by the President acting on the advice of the Judicial Service Commission. He or she is required to hold legal qualifications.

55. He or she is empowered to investigate administrative actions where it is alleged that a person has suffered injustice as a result of that action. The Act restricts the investigative powers of the Ombudsman to ministries, government departments and statutory authorities.

56. However, the defence forces, police and prison service are specifically excluded from being the subject of investigation as are the President and the members of his staff, the Cabinet Office, the Attorney-General and judicial officers.

57. The Ombudsman can only initiate an investigation where a complaint has been lodged. Complaints must be made within 12 months from the date when the complainant first became aware of the act complained of.

58. When a complaint is well founded the Ombudsman will report the finding to the relevant body and make recommendations. He has no enforcement powers. If a body does not act on his recommendations he can make a report to the President and Parliament. The Ombudsman compiles an annual report on his activities which is tabled in Parliament.

Law Development Commission

59. The Commission is established under an Act of Parliament. It comprises:

(a) A Chairman, who is appointed by the Minister of Justice in consultation with the Judicial Service Commission and must be a judge of the Supreme Court;

(b) A Deputy Chairman, who is also appointed by the Minister in consultation with the Judicial Service Commission;

(c) The Attorney-General;

(d) The Ombudsman;

(e) Several members of the legal fraternity.

60. The Commission's main function is to promote the development and the reform of the law. To that end the Commission may prepare programmes or reports for consideration by the Minister and Parliament. It can also investigate laws in other countries for purposes of advising the Minister. The Commission has, since its inception, been instrumental in major legislative reform.

Protection of rights under the Constitution

61. The Constitution, in chapter III, makes provision for the protection of fundamental rights and freedoms. These include the right to life, the right to be free from slavery and forced labour, inhuman treatment, etc. It also provides for the freedom of conscience, expression, assembly, association and movement.

62. The Constitution in section 24 outlines the protective measures. It provides that any person who feels that his rights as enshrined in the Declaration of Rights have been contravened can apply to the Supreme Court for redress. The Supreme Court is empowered, in such cases, to make any order including orders for compensation and give directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Declaration of Rights.

63. The Declaration of Rights can also be invoked in other courts. The practice in the courts in the course of interpreting the Declaration of Rights is to place reliance on the interpretation given to equivalent rights in other jurisdictions and in relevant international and regional human rights instruments.

IV. INFORMATION AND PUBLICITY

64. The Government is responsible for preparing reports to the bodies established under the various United Nations human rights instruments to monitor State party compliance with treaty obligations. This process is supervised by the Inter-Ministerial Committee on Human Rights which was established in 1993. The Committee also liaises with non-governmental organizations.

65. The publicity of human rights, in Zimbabwe, is also carried out by non-governmental organizations. These include institutions such as the Catholic Commission for Justice and Peace, ZimRights and the Legal Resources Foundation.